

### REMARKS

Reconsideration of the present application is requested on the basis of the following particulars.

1. In the Drawings

In the Action, FIGS. 1-6 were objected to failing to adequately label the features shown therein. Upon a careful observation of FIGS. 1-3 and 6, it is readily apparent that the features shown therein are adequately labeled.

It will be noted that FIGS. 4a, 4b, 5a and 5b do not include reference numerals for the signals illustrated therein, and Applicants are unsure as to whether the Examiner meant to indicate that the signals in FIGS. 4a, 4b, 5a and 5b were adequately labeled.

In an effort to ascertain what the Examiner meant by the objection, Applicants' representative contacted the Examiner of record on March 22, 2004. At the time, the Examiner did not have in her possession a copy of the aforementioned drawings and thus was not able to provide any guidance as to the objection in the Action.

Applicants submit herewith a copy of the drawings to demonstrate that FIGS. 1-3 and 6 were adequately labeled, as originally filed. On drawing sheet 2/2, FIGS. 4a, 4b, 5a and 5b are presented as being amended with reference numerals to denote the signals shown therein. The specification has been amended accordingly to include the reference numerals shown in the Replacement Sheet.

If in the event the Examiner is of the belief that the drawings still fail to adequately label the features shown therein, the Examiner is respectfully requested to provide a more detailed statement explaining the objections in the next Action.

It is now believed that the drawings comply with U.S. formal requirements. Accordingly, acceptance of the drawing changes is requested.

2. In the Specification

The specification has been amended to include the appropriate section headings identified in the Action. Moreover, reference to the claims on page 1 of the specification has been removed.

In accordance with the drawings changes in FIGS. 4a, 4b, 5a and 5b, the specification has been amended to refer to the reference numerals shown therein.

Acceptance of the amendments to the specification is requested in the next Action.

3. In the Claims

As evident in the List of Current Claims, the reference numerals originally shown in the claims have been removed. It will be noted, however, that in accordance with MPEP 608.01(m), the use of reference numerals is considered as having no effect on the scope of the claims, and is thus considered acceptable in U.S. practice. Accordingly, the removal of the reference numerals in the List of Current claims is purely a voluntary amendment that neither broadens nor narrows the scope of the claims. Acceptance of the amendments to the claims is requested in the next Action.

4. Rejection of Claims 1-14 Under 35 U.S.C. § 103(a) As Being Unpatentable Over U.S. Patent 6,654,466 (Ikefuji et al.) in view of U.S. Patent 6,373,946 (Johnston)

Claims 1-14 presently stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 6,654,466 (Ikefuji et al.) in view of U.S. Patent 6,373,946 (Johnston). This rejection is respectfully traversed on the basis that the present application has a foreign priority date that predates the 35 U.S.C. § 102(e) critical reference date of the disclosure of Ikefuji et al., and it is uncertain as whether the disclosure of Johnston has a 35 U.S.C. § 102(e) critical reference date that

predates the present application. In the alternative, it is respectfully submitted that the disclosures of Ikefuji et al. and Johnston, whether considered collectively or individually, disclose or suggest all of the features of the subject matter recited in claims 1-14 of the present application.

As is well understood, before prior art is available under 35 U.S.C. § 103, it must be known whether a patent or publication is in the prior art under 35 U.S.C. § 102. Accordingly, a 35 U.S.C. § 103 rejection is based on 35 U.S.C. § 102(a), 102(b), 102(e) depending on the type of prior art reference used and its publication or issue date (MPEP 2141.01).

In view of the combination of the teachings of Ikefuji et al. and Johnston, the present obviousness rejection would be based on 35 U.S.C. § 102(e) if either of these references anticipated the features of claims 1-14 since the disclosures of Ikefuji et al. and Johnston were filed in the United States before the present application.

A patent issued from a U.S. application that claims the benefit of the filing date of a copending PCT international application. When examining an application filed prior to November 29, 2000 which has not been voluntarily published as in the present application, a prior art reference has a 35 U.S.C. § 102(e) reference date when the applicants of such prior art reference fulfilled the requirements of 35 U.S.C. § 371(c)(1), (c)(2) and (c)(4) (MPEP 2136.03).

The disclosure of Ikefuji et al. has a 35 U.S.C. § 371(c)(1), (c)(2) and (c)(4) date of October 14, 1999. On the other hand, the present application has a priority date under 35 U.S.C. § 119 of September 9, 1997 corresponding to the right of priority of German application 197 39 448.5 (*In re Hilmer*, 359 F.2d 859 (CCPA 1966)). The Examiner is encouraged to review the claim of foreign priority of the present application as indicated on the Declaration filed on May 18, 2000.

It is submitted that German application 197 39 448.5 fully supports the subject matter recited in claims 1-14 in the present application.

In view of the right of priority of the present application that predates the critical reference date of the disclosure of Ikefuji et al., it is clear that the teachings of Ikefuji et al. are not available as prior art to reject the claims of the present application.

Turning to the disclosure of Johnston, it is unclear as to whether this reference can be used as a prior art reference against the claims of the present application. The disclosure of Johnston has a U.S. filing date of December 23, 1997 and is a continuation-in-part of application no. 08/866,912 filed on May 30, 1997.

It is readily evident that the filing of the disclosure of Johnston is after the priority date of the present application.

It is well known that the filing date of a U.S. parent application can only be used as the 35 U.S.C. § 102(e) date if it supports the claims of the issued child (MPEP2136.04). According to the disclosure of Johnston, this reference is the child of application no. 08/866,912. It does not appear in the Office Action that the Examiner has made any effort to determine whether the subject matter which is described by Johnston is supported by application no. 08/866,912.

It is respectfully requested that the Examiner provide an indication as to whether the teachings of Johnston used in the rejection of claims 1-14 are supported by application no. 08/866,912.

Despite the observations on the critical reference dates of the disclosures of Ikefuji et al. and Johnston, each feature of the subject matter recited in claims 1-14 of the present application is not disclosed or suggested in the combination of the disclosures of Ikefuji et al. and Johnston.

In observing the arguments in the Office Action, it is asserted in the Office Action that the first feature of claim 1, namely "providing a first transmission channel..." is known by the disclosure of Ikefuji et al. Moreover, it is stated that the second feature of claim 1, namely "providing a second channel which is logically separated from the first channel..." is known from the teachings of Ikefuji et al. Applicants respectfully traverse this interpretation of the teachings of Ikefuji et al.

Ikefuji et al. describes a data communication apparatus having first (82) and second (90) data communication means that process data between each other. While it appears that the Examiner has likened the first and second data communication means as the data carrier and the external device recited in claims 1-14 of the present application, there has been no identification of first and second transmission channels of both the first and second data communication means taught by Ikefuji et al.

It will be pointed out that while Ikefuji et al. teach providing power over different frequency bands, it is submitted that transmitting data and power via different frequency bands is not an equivalent teaching for providing two different channels for data transmission that are logically separated from one another. The disclosure of Ikefuji et al. therefore does not disclose or suggest testing the authenticity of a data carrier by providing two different channels for data transmission.

It will be noted that the methods embodied in the present application including two different transmission channels have the advantage over known methods for testing the authenticity of data carriers since they permit very reliable authenticity testing without using a standard transmission channel between data carrier and external device or being dependent on the standard transmission channel.

Turning to the disclosure of Johnston, this reference fails to disclose or suggest providing two different channels for data transmission that are logically

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separated from one another. Moreover, the Examiner has failed to identify any such teaching in the Office Action to make up for the inherent shortcomings of the disclosure of Ikefuji et al. regarding its failure to disclose the two different transmission channels of the present application.

5. Conclusion

In view of the foregoing remarks, it is respectfully submitted that the application is in condition for allowance. Accordingly, it is respectfully requested that claims 1-14 be allowed and the application be passed to issue.

If any issues remain that may be resolved by a telephone or facsimile communication with the Applicants' Attorney, the Examiner is invited to contact the undersigned at the numbers shown below.

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amendment 230304.wpd

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Justin J. Cassell", written over a horizontal line.

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